

Hon. Richard A. Jones

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
TYSON BURT JONES,  
  
Defendant.

No. CR10-46RAJ

ORDER DENYING MOTION FOR  
REDUCTION OF SENTENCE

**I. INTRODUCTION**

This matter comes before the court on Defendant Tyson Burt Jones' *pro se* motion requesting a reduction in his sentence under 18 U.S.C. § 3582(c)(2), based on Amendments 782 and 788 to the United States Sentencing Guidelines ("USSG") (Dkt. #38). Plaintiff United States of America opposes the motion (Dkt. #47). The court has thoroughly considered the parties' briefing, the relevant record, and the applicable law. Being fully advised,<sup>1</sup> the court DENIES Mr. Jones' motion for the reasons stated below.

**II. BACKGROUND**

Defendant Tyson Burt Jones was sentenced by this court on September 17, 2010, following his plea of guilty to possession with intent to distribute oxycodone.

At that time the court calculated Defendant's Total Offense Level as 29, because he qualified as a career offender. Pursuant to his career offender status,

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<sup>1</sup> No party has requested it, and the court finds oral argument to be unnecessary.

1 Defendant's Criminal History Category was set at VI. At Total Offense Level 29  
2 and Criminal History Category VI, Defendant's resulting Guidelines range was 151  
3 to 188 months. This was the range adopted by the court. The court then varied  
4 downward significantly from that range on the basis of 18 U.S.C. § 3553(a) factors  
5 and the parties' recommendations, among other factors, and imposed a sentence of  
6 84 months' imprisonment.

### 7 **III. DISCUSSION**

#### 8 **A. Legal Standard**

9 Amendment 782 to the United States Sentencing Guidelines, which became  
10 effective November 1, 2014, lowered the penalties for most drug offenses by  
11 reducing most base offense levels contained in the USSG § 2D1.1 Drug Quantity  
12 Table by two levels, and making other related adjustments to this Guideline. Along  
13 with Amendment 782, the Sentencing Commission adopted Amendment 788, which  
14 decreed that Amendment 782 may be applied retroactively to lower the sentences of  
15 previously sentenced inmates. At issue in the instant motion is whether this court has  
16 authority to reduce Defendant's sentence pursuant to 18 U.S.C. § 3582(c)(2).

17 In order to qualify for a sentence reduction under 18 U.S.C. § 3582(c)(2), two  
18 conditions must be met: (1) the Defendant must have been sentenced to a term of  
19 imprisonment based on a sentencing range that has been lowered by a retroactively  
20 applicable Guidelines amendment; and (2) the sentence reduction sought must be  
21 consistent with the Sentencing Commission's applicable policy statements. *United*  
22 *States v. Waters*, 771 F.3d 679, 680 (9th Cir. 2014) (per curiam). A district court  
23 does not have jurisdiction to reduce the Defendant's sentence unless both criteria are  
24 met. *See United States v. Wesson*, 583 F.3d 728, 730 (9th Cir. 2009).

#### 25 **B. Defendant's Motion**

26 Following the recent amendments to the Sentencing Guidelines, Defendant's  
sentencing range has not changed. This is because it was not based on a provision in

1 § 2D1.1 which has been amended. The career offender provisions of § 4B1.1 are  
2 unaffected by the recent amendments, and Defendant's offense level and resulting  
3 sentencing range remain exactly as they were at the time of sentencing. Section  
4 1B1.10 directs: "The court shall substitute only the amendments listed in subsection  
5 (d) for the corresponding guideline provisions that were applied when the defendant  
6 was sentenced and shall leave all other guideline application decisions unaffected."  
7 USSG § 1B1.10 (b)(1). Accordingly, Defendant does not meet the first requirement  
8 for eligibility for a reduction.

9 In addition, Defendant's sentence is already well below the applicable  
10 sentencing range, calculated using the amended Guidelines. Even if he were eligible  
11 for some relief, the court is not authorized to reduce his sentence below the low end  
12 of the range. For this reason also Defendant is not eligible for a retroactive  
13 reduction based on Amendments 782 and 788.

#### 14 IV. CONCLUSION

15 For the above reasons, Defendant Tyson Burt Jones' *pro se* Motion to Reduce  
16 Sentence (Dkt. #38) is DENIED.

17 DATED this 8<sup>th</sup> day of June, 2015.

18   
19 The Honorable Richard A. Jones  
20 United States District Judge  
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